

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1973-2019 (O&M)

Date of decision: 02.06.2022

Geeta Rani

....Appellant

Vs.

Amardeep

....Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. Rohit Rana, Advocate
for the appellant.

Mr. Bikram Chaudhary, Advocate
for the respondent.

Ritu Bahri, J.

The appellant, Geeta Rani has come up in this appeal against the judgment and decree dated 14.12.2018 passed by the Family Court, Faridabad whereby a petition filed by respondent-Amardeep under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act, 1955) was allowed and he was granted divorce on the ground of cruelty under Section 13(1)(i-a) of the Act, 1955.

The brief facts of the case are that the marriage of the parties was solemnized on 09.11.2008 according to Hindu rites and ceremonies. However, no child was born out of their wedlock. The respondent-husband was in the private job and was transferred to Gwalior. He requested the appellant-wife to accompany him but she denied and remained at Faridabad. In Faridabad, she did not adjust with the parents of the respondents and never took any interest in household work.

In the year 2012, the respondent-husband returned back to

Faridabad as he became jobless. The appellant left the matrimonial home in January 2011 and since then she had been residing separately. Pursuant to petition under Section 9 of the Act, 1955, the appellant-Geeta Rani promised to come back but she never returned back.

A decree of divorce has been granted on the ground of cruelty on the following grounds:-

1. The parties have been staying separately since January 2011.
As per the statement given by the appellant-wife (Ex.P-2) that she would come back to the respondent but she never came back.
2. The appellant lodged a complaint under the Protection of Women from Domestic Violence Act, 2005.
3. Petition under Section 125 Cr.P.C.
4. An FIR under Section 498A IPC against the respondent-husband.
5. However, the respondent-husband has been acquitted and even the appeal preferred by the appellant stood dismissed.

On account of the acquittal, the agony faced by the respondent-husband and his family members amounted to cruelty.

In the present case, when the notice was issued the matter was referred for mediation. As per the report of the Mediator, no mediation could be carried out as the respondent-husband did not come for mediation. Thereafter, this case was taken up for hearing on 19.05.2022. Learned counsel for the appellant informed that the appellant was not interested to pursue the appeal and she was only seeking permanent alimony. Both the parties were again called on 26.05.2022. The respondent offered Rs.1 lac as

permanent alimony to the appellant-wife who was present in the Court alongwith her father and her father refused to accept this amount. The appellant Geeta Rani is an educated lady and has done B.Ed. Finally, no amicable settlement could be arrived at between the parties.

At this juncture, it is important to make reference to the judgment passed by the Hon'ble Supreme Court in ***Raj Talreja vs. Kavita Talreja, Civil Appeal No.10719 of 2013***, decided on 24.04.2017, wherein, it was observed that a false complaint was registered against the husband by the wife, after wife herself inflicted injuries on her body. In criminal proceedings, the husband had been acquitted and thereafter, proceedings against the wife were launched. On this account, the husband was held entitled to decree of divorce, on the ground of cruelty. It was further observed as herein given:-

“9. This Court in Para 16 of ***K. Srinivas Rao v. D.A. Deepa, 2013 (2) RCR (Civil) 232*** has held as follows:

“16. Thus, to the instances illustrative of mental cruelty noted in ***Samar Ghosh v. Jaya Ghosh, 2007 (4) SCC 511***, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse.”

In ***Ravi Kumar v. Julmidevi, 2010 (2) RCR (Civil) 178***, this Court while dealing with the definition of cruelty held as follows:

“19. It may be true that there is no definition of cruelty under the said Act. Actually such a definition is not possible. In matrimonial relationship, cruelty would obviously mean absence of mutual respect and understanding between the

spouses which embitters the relationship and often leads to various outbursts of behaviour which can be termed as cruelty. Sometime cruelty in a matrimonial relationship may take the form of violence, sometime it may take a different form. At times, it may be just an attitude or an approach. Silence in some situations may amount to cruelty.

20. Therefore, cruelty in matrimonial behaviour defies any definition and its categories can never be closed. Whether the husband is cruel to his wife or the wife is cruel to her husband has to be ascertained and judged by taking into account the entire facts and circumstances of the given case and not by any predetermined rigid formula. Cruelty in matrimonial cases can be of infinite variety-it may be subtle or even brutal and may be by gestures and words. That possibly explains why Lord Denning in *Sheldon v. Sheldon*, (1966) 2 WLR 993 held that categories of cruelty in matrimonial cases are never closed.

10. Cruelty can never be defined with exactitude. What is cruelty will depend upon the facts and circumstances of each case. In the present case, from the facts narrated above, it is apparent that the wife made reckless, defamatory and false accusations against her husband, his family members and colleagues, which would definitely have the effect of lowering his reputation in the eyes of his peers. Mere filing of complaints is not cruelty, if there are justifiable reasons to file the complaints. Merely because no action is taken on the complaint or after trial the accused is acquitted may not be a ground to treat such accusations of the wife as cruelty within the meaning of the Hindu Marriage Act 1955 (for short 'the Act'). However, if it is found that the allegations are patently false, then there can be no manner of doubt that the said conduct of a spouse levelling false accusations against the other spouse would be an act of cruelty. In the present case, all the allegations were found to be false. Later, she filed another complaint alleging that her husband along with some other persons had trespassed into her house and assaulted her. The police found, on investigation,

that not only was the complaint false but also the injuries were self inflicted by the wife. Thereafter, proceedings were launched against the wife under Section 182 of IPC.”

Even making one false complaint against the other spouse would amount to cruelty. In the present case, an FIR under Section 498A IPC was registered by the appellant against the respondent, which was not found to be correct and he is acquitted.

Keeping in view of above observation, no ground to interfere in judgment and decree dated 14.12.2018 passed by the Family Court, Faridabad is made out. However, the respondent-husband will give Rs.1 lac as permanent alimony to the appellant-wife within a period of one month from the date of receipt of certified copy of this order.

Appeal is hereby dismissed. Pending application, if any, also stands dismissed.

(RITU BAHRI)
JUDGE

02.06.2022
Divyanshi

(ALKA SARIN)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No